

REMARKS

Claims 1-30 and 34-38 are pending in this application. In the Office Action mailed June 27, 2003 (the "Office Action"), claims 1-3, 5-9, 14, 15, 21, 22 and 24-27 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 4,770,079 ("Mastroianni"). Claims 28-30 were rejected under 35 U.S.C. § 102(b) as unpatentable over U.S. Patent No. 6,111,186 ("Krozack"). Claim 36 was rejected under 35 U.S.C. § 112, second paragraph. Claims 4, 10-13, 16-20, 23 and 34-38 were objected to as being dependent upon a rejected base claim, but the Office Action noted that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These rejections and objections are respectfully traversed, for reasons that include those set forth below and those set forth in Amendment A, which are hereby incorporated by reference.

Claims 2, 6-8, 10, 11, 13, 14, 19, 23, 28-30, 34, 35 and 36 have been amended. Claims 5 and 9 have been cancelled, without prejudice. New claims 39-41 have been added. It is respectfully submitted that all amendments and new claims are supported by the application as filed and that no new matter has been added.

Examiner Interview; Claim Rejections Under 35 U.S.C Section 103 and Responsive Arguments

Applicant's attorney thanks the Examiner for his time and thoughtful comments during the telephonic interview of September 11, 2003. Applicant Phil Green also participated in the telephonic interview. A principal topic of the interview was an explanation by Applicant and Applicant's attorney (hereinafter "Applicant") that claim 1 is patentably distinguishable over Mastroianni and that the claim rejections under 35 U.S.C. § 103 should therefore be withdrawn.

For example, Applicant noted that the case of In re Larson, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965) does not articulate a rule that the making integral of parts is "per se" obvious. On the contrary, Applicant noted the line of cases (including a United States Supreme Court case) set forth in Mooney v. Brunswick Corp., 489 F.Supp. 544, 206 USPQ 121 (E.D.Wis. 1980) (aff'd, "in all respects" in 663 F.2d. 724, 212 U.S.P.B. 401 (7th Cir. 1981), which led that court to hold:

A review of the above-cited cases makes it clear that there is no per se rule that making something in one piece that was formerly made in two or more pieces renders it obvious. Rather, the Court must look beyond the mere fact of unitary construction to determine what improvement results from the one piece construction and whether the improvement or construction itself was obvious from the prior art.

(206 USPQ at 138.)

Applicant noted that Mastroianni teaches away from making a travel guitar or similar instrument having a unitary neck and body: Mastroianni teaches making a travel guitar having a neck that folds with respect to the body or detaches from the body. Applicant further noted that this arrangement requires string tension to be released when the instrument is collapsed for transport or storage and that folding or taking apart the neck and body of a stringed musical instrument causes the strings to go slack, requiring frequent and inconvenient retuning after the strings are again tensioned. The present invention avoids these problems by providing a unitary neck and body that is neither folded nor disassembled for storage in its case.

Applicant and the Examiner also discussed an article from the August 2003 edition of *Acoustic Guitar* magazine, entitled “Three Frame-Based Practice Guitars.” Applicant pointed out several paragraphs of the article on page 96. In one such paragraph, the article noted that the sides of the Miranda guitar (an early production model according to one embodiment of the invention) “are about the same depth as many classical guitars, making the Miranda by far the most comfortable instrument of its kind to hold and play.” Applicant noted that this feature corresponds with the side panel recitations of claims 6, 7 and 8, and is support for Applicants’ assertion that these recitations further distinguish the prior art.

Applicant further noted the following statement on page 96 regarding the benefits of the “unitary neck and body”:

The Miranda also features a headless design, with the strings attached to a tie block behind the nut, tuning machines located on the back of the body, and the strings going over a set of rollers behind the saddle. This design allows the overall length of the disassembled body to be only about 2.5 inches longer than the instrument’s scale.

The small disassembled size allowed by the unitary neck and body is shown in a photograph on page 95, which reveals the Miranda guitar to be the smallest of the three guitars reviewed.

The Examiner agreed to consider Applicants' arguments further. However, the Examiner also suggested amending claim 1 to recite a support arm extending to both sides of the unitary neck and body, the support arm connected to two side panels. Because the Examiner indicated that this amendment would overcome the rejection under 35 U.S.C. § 103 over Mastroianni, new independent claim 40 includes the recitations of claim 1 and the Examiner's proposed amendments:

- a support arm coupled to the unitary neck and body and extending to a first side and a second side thereof;
- a first side panel coupled to a first end of the support arm; and
- a second side panel coupled to a second end of the support arm.

Therefore, it is respectfully submitted that claim 40 (and claims dependent therefrom) are patentable over the art relied upon.

Independent claims 21 and 25 already include the limitations that the Examiner has determined to overcome the rejection under 35 U.S.C. § 103 over Mastroianni. Claim 21 recites:

A method of configuring for use a stringed musical instrument comprising at least a unitary neck and body, *two side panels*, and at least one support arm, comprising the steps of:

- coupling the support arm to the unitary neck and body;
- coupling a first side panel to a first end of the support arm; and*
- coupling a second side panel to a second end of the support arm.*

(Emphasis added.)

Similarly, claim 25 recites:

A method of configuring for use a stringed musical instrument comprising at least a unitary neck and body, *two side panels, and a first and second support arm* pivotally coupled to the unitary neck and body, comprising the steps of:

- moving the first and second support arms from their stowed positions to their deployed positions;

*coupling a first side panel to a first support arm; and
coupling a second side panel to a second support arm.*

(Emphasis added.)

Therefore, it is respectfully submitted that the pending rejections to claims 21 and 25 (and claims dependent therefrom) are unsupported by the art relied upon and should be withdrawn.

New independent claim 39 includes the recitations of claim 1 and further recites the feature of releasable coupling of the support arm and side panels:

at least one support arm releasably coupled to the unitary neck and body
and extending to at least one side thereof; and
at least one side panel releasably coupled to the support arm.

New independent claim 41 includes the recitations of claim 1, the Examiner's proposed amendments and further recites the feature of releasable coupling of the support arm and side panels:

a support arm releasably coupled to the unitary neck and body and
extending to a first side and a second side thereof;
a first side panel releasably coupled to a first end of the support arm; and
a second side panel releasably coupled to a second end of the support arm.

Therefore, it is respectfully submitted that claims 39 and 41 (and claims dependent therefrom) are patentable over the art relied upon.

Claim Rejections Under 35 U.S.C. Section 112 and Responsive Amendment

Claim 36 was rejected under 35 U.S.C. § 112, second paragraph. Claim 36 has been amended as follows: "The musical instrument of claim 40, ~~1, wherein the~~ further comprising compliant material for dampening ~~dampens the~~ string vibrations, thereby shortening ring-down time." It is respectfully submitted that the rejection under 35 U.S.C. § 112, second paragraph has been overcome and should be withdrawn.

Claim Rejections Under 35 U.S.C Section 102

Former independent claim 28 has been rewritten as a claim dependent from allowable claim 40. Claims 29 and 30 have been rewritten to properly depend from the "musical instrument" of claim 40 and amended claim 28. Accordingly, it is respectfully submitted that the rejections under 35 U.S.C. § 102 have been overcome and should be withdrawn.

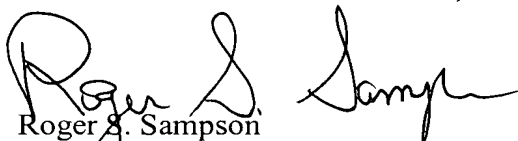
Claim Objections and Responsive Amendments

Claims 11, 23, 34 and 35 were objected to as being dependent upon a rejected base claim, but the Office Action noted that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Although the rejection of claim 1 is traversed for reasons including the foregoing, claims 11, 23, 34 and 35 have been nonetheless been rewritten in independent form including all of the limitations of the base claim (claim 1). There were no intervening claims.

Conclusion

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set forth below.

Respectfully submitted,
BEYER WEAVER & THOMAS, LLP


Roger S. Sampson
Reg. No. 44,314

510.495.3201
P.O. Box 778
Berkeley, CA 94704-0778